

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Bryant Barton,

Plaintiff,

vs.

Michael Truesdale, SCDC Staff Attorney,

Defendant.

C.A. No.: 9:07-03471-RBH

O R D E R

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No objections were filed to the Report and Recommendation. The plaintiff was notified by the court on November 20, 2007 [entry # 13] to keep the Clerk advised in writing of any change of address. Plaintiff in fact notified the court [entry # 16] in writing of a change of address on January 28, 2008. On September 29, 2008, the court mailed to plaintiff defendant's [entry #21]

motion for summary judgment, [entry # 22] Roseboro Order, and [entry # 26] Ten Day Order. On October 6, 2008, the mail was returned [entry #28] marked “Undeliverable, inmate released.” The Report and Recommendation was mailed to the plaintiff’s last known address at the Lee Correctional Institute. The Report and Recommendation has not been returned, but the deadline for filing objections has now passed. The plaintiff has failed to prosecute and this action must be dismissed on the basis for failure to prosecute. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Marchant’s Report and Recommendation and incorporates it herein. It is therefore

ORDERED that this action is hereby DISMISSED with prejudice for plaintiff’s failure to prosecute, in accordance with Rule 41(b), Fed.R.Civ.P.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
United States District Judge

Florence, South Carolina
October 29, 2008